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**NAACP LEGAL DEFENSE &
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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

GEORGE MANDALA and CHARLES
BARNETT, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

NTT DATA, INC.,

Defendant.

Case No. 18 Civ. 6591 (CJS)

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY
IN FURTHER OPPOSITION TO DEFENDANT'S MOTION TO DISMISS
THE CLASS ACTION COMPLAINT IN ITS ENTIRETY AND WITH PREJUDICE**

Plaintiffs respectfully submit this notice of supplemental authority for *Jackson v. Tryon Park Apartments, Inc.*, No. 18 Civ. 6238, 2019 WL 331635 (W.D.N.Y. Jan. 25, 2019) (Wolford, D.J.) (attached as Exhibit A), which was recently decided in this District and provides further support that Plaintiffs' Title VII allegations are more than sufficient to survive a Fed. R. Civ. P. 12(b)(6) motion to dismiss. *See* ECF No. 11 (Pls.' Mem. of Law IOT Def.'s Mot. to Dismiss the Class Action Compl. in Its Entirety and With Prejudice ("Opp. Br.)) at 6-14.

In *Jackson*, a Fair Housing Act case, the court found that the plaintiff's allegation that the defendants had a neutral policy to exclude individuals with felony convictions from renting apartments, in conjunction with statistics showing that African Americans interact with the

criminal justice system at greater rates than the general population, “plausibly alleged a disparate impact claim[.]” 2019 WL 331635, at *3. The plaintiff’s allegations in *Jackson* were plausible “[b]ecause the statistical racial disparity that [the] [p]laintiff relie[d] on is directly related to Defendants’ policy of excluding a person with a felony conviction from renting at Defendants’ property.” *Id.* Likewise, Plaintiffs in this case have pled statistics establishing African Americans’ higher rates of interaction with the criminal justice system—an impact that is directly related to NTT Data, Inc.’s policy of excluding applicants like Plaintiffs from employment because of their criminal records. *See, e.g.,* Opp. Br. at 7-8.

While *Jackson* is a disparate impact case alleging racial discrimination under the Fair Housing Act, the Court’s application of plausibility to the Plaintiffs’ allegations applies with equal force here.

Dated: February 22, 2019
New York, New York

Respectfully submitted,

By: /s/ Ossai Miazad
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